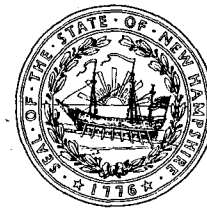**NHDES**

State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147   FAX (603) 271-6588

LETTER OF DEFICIENCY
WET 2005-13

May 27, 2005

Joseph Frawley
2 Paul Ave.
Derry, NH 03038

RE: DES Wetlands File #2005-00955 2 Paul Ave, Derry

Dear Mr. Frawley:

On May 11, 2005, personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, more specifically referenced on Town of Derry Tax Map 8 as Lot 151 (the "Property"). The purpose of the inspection was to determine compliance with RSA 482-A and NH Code of Admin. Rules Wt 100-700.

During the inspection the following deficiencies were documented:

1. Approximately 7,745 square feet of wetlands had been filled adjacent to a Town of Derry Designated Prime Wetland.
2. Approximately 1,655 square feet of wetlands had been dredged and filled within a Town of Derry Designated Prime Wetland.

In response, you are requested to take the following actions:

1. By June 15, 2005, retain the services of a certified wetland scientist to delineate the wetland areas on the property and prepare a plan to restore the wetland to its original footprint. The plan should be submitted to DES by July 15, 2005 and contain the following:
    a. A plan with dimensions, drawn to scale, indicating the delineated footprint of the wetland prior to disturbance (delineated in accordance with Section F of The Corps of Engineers Wetlands Delineation Manual) and the footprint of the existing conditions indicating in square feet the area that has been disturbed by dredging and filling;
    b. A plan for re-establishing the former wetland to original elevations and condition;
    c. A proposed means of erosion control;
    d. A proposed schedule and restoration sequence listing equipment and methods for accomplishing restoration;
    e. A proposed planting plan for the re-establishment of wetland vegetation;
    f. A monitoring and reporting schedule including an initial report to DES and at least one monitoring report after a full growing season;
    g. Carry out restoration, after and as conditioned in a separate DES Restoration Approval Letter, by September 15, 2005.

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit. If work is done without a permit, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

> Arlene Allen, Compliance Specialist
> Wetlands Bureau
> Department of Environmental Services
> 29 Hazen Drive
> PO Box 95
> Concord, NH 03302-0095

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact me at (603) 271-4192.

Sincerely,

Collis G. Adams, CWS
Administrator
Wetlands Bureau

CERTIFIED MAIL 7004 0750 0003 0562 6588

cc: Rene Pelletier, Manager, Land Resources Management Program
Gretchen R. Hamel, Administrator, DES Legal Unit
Derry Conservation Commission
Derry Board of Selectmen
Fred Kelly, Derry Code Enforcement Officer
USACOE